IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1480 of 2007
Date of Decision: 8.3.2007

The Executive Engineer, Public Health, Division No.2 Bhiwani

Petitioner

versus

Babu Lal and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri Harish Rathee, Sr.DAG Haryana for the petitioner

Jasbir Singh, J. (Oral)

This writ petition has been filed to lay challenge to award dated 9.8.2006 (Annexure P/5), passed by the Industrial Tribunal-cum-Labour Court, Rohtak, ordering reinstatement of the respondent-workman in service alongwith 50% of back wages.

Counsel for the petitioner states that the award passed is contrary to the evidence on record. The workman had not completed 240 days in service preceding to his termination and further that the workman has also failed to prove that his juniors were retained in service. Counsel prays that the award, under challenge, be set aside.

We feel that the argument advanced is liable to be rejected. It is apparent from the record that the workman made all efforts to show that he had completed 240 days in service, when the management witness failed to produce record, he even summoned an officer from the department, along with the relevant record, to show that he had worked for 240 days and that his juniors were retained in service, when he was thrown out of service. Even that officer failed to produced the necessary record like attendance register, assignment register, site register etc. By taking note of the same,

an adverse inference has rightly been drawn by the Court below against the management. The Labour Court in paragraph 10 of the award, under challenge, has observed thus:-

> *"There is merit in the contention of the learned AR for the workman. Taking into consideration that it is the bounden duty of the mgt, to produced the entire service record of the workman. But in the present case though MW1 had produced the Muster Rolls Ex.M1 to Ex.M22 but he failed to produce the Muster Rolls for the remaining months and then the workman has to summon WW4. But this witness has also failed to bring the site register, attendance register, assignment register and complaint register, whereas the same are maintained by the mgt. These are the documents of the mgt. And the mgt is duty bound to produce the same so the Court may come to proper conclusion. Every efforts has been made by the workman to get produced the service record his juniors but WW4 has categorically stated that service record of juniors was not available in the office. Therefore, it is a clear case in which adverse inference is to be drawn against the mgt. and I draw the same against the mgt because it knowingly failed to produce summoned record i.e. site register, attendance register, assignment register and record of juniors. Therefore I decide this issue in favour of the workman and against the mgt. holding that the workman is continuously worked from 9.5.1996 to 2.9.1998."*

In view of findings given above, we feel that no case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

March 08, 2007
gk

(Nirmal Yadav)
Judge